HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 27232 OF 1996

DATE: 23.1.2007

Between:

N. Vasudeva Kumar S/o Narasimha Rao and two others

…Petitioners

AND

1. State of Andhra Pradesh rep. by its Secretary to Government and two others.

….Respondents

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NOS. 27232 OF 1996

ORAL ORDER:

Petitioners three in number were appointed as Typist, Junior Assistant and Attender respectively in the third respondent-College on 23.6.1990. G.O.Ms.No. 170 dated 12.7.1990 was issued admitting the third respondent-College to Grant-in-aid with effect from 16.4.1990. However, posts in which the petitioners were working were not admitted to grant-in-aid. The second respondent issued proceedings dated 28.4.1993 regularizing the irregular appointments made without following the rule of reservation. The second respondent, subsequently, issued proceedings dated 24.2.1994 directing the Regional Joint Director of Higher Education, Guntur, to enquire into the ratification of appointment. The Regional Joint Director enquired into the matter and submitted his report on 26.7.1994. G.O.Rt.No. 2019 was issued ratifying the action of the third respondent in appointing the petitioners by relaxing the selection procedure prescribed in G.O.Ms.No. 1119 dated 18.12.1976 and the second respondent was permitted to regularize the appointment of the petitioner and admit the posts into grant-in-aid with effect from 25.6.1990.

2. This Court by an order dated 28.12.1995 in W.P.M.P.No. 36424 of 1995 in W.P.No. 29512 of 1995, directed the respondents to release the salary. On the ground that the interim order was not implemented the petitioner filed C.C.No. 380 of 1996.

Consequently, the respondents issued proceedings dated 16.4.1996 giving effect to the interim orders. As a result the Contempt Case was closed by an order dated 4.6.1996. The first respondent issued proceedings dated 25.11.1996, which is impugned in this Writ Petition.

3. In the said proceedings dated 25.11.1996, it is stated that the Government had re-examined the entire issue in detail with reference to the points raised by the Commissioner of collegiate Education and that during the course of re-examination of the proposals, it was noticed that the petitioners were appointed on a consolidated pay of Rs. 250/- per month by the Correspondent of the said college with effect from 25.6.1990 after inspection of the Regional Joint Director of Higher Education, Guntur in connection with the admission of the college to grant-in-aid, that it was an after thought of the Management to take these individuals on to the rolls and to see that they were admitted to grant-in-aid, particularly when there is no sufficient work load. It is also stated that the eligibility of the petitioners for appointment itself was questionable. The government in the said matter decided to cancel the orders already issued in G.O.Rt.No. 2019 dated 21.11.1994 after giving an opportunity to the individuals since it would create an inappropriate and wrong precedent and also involve huge financial commitment on the part of the Government. The petitioners were asked to show cause as to why G.O.Rt.No. 2019 dated 21.11.1994 should not be cancelled. Fifteen days time was granted for the petitioners to submit their replies to the show cause notices.

4. Sri D.V. Sitharam Murthy, learned counsel appearing for the petitioner submits that since the Government had already decided to cancel G.O.Rt.No. 2019 dated 21.11.1994, the order dated

25.11.1996 was in fact a final order and not a show cause notice. Learned counsel would submit that no useful purpose would be served by submitting reply to the above said show cause notice since the Government had already decided to cancel G.O.Rt.No. 2019 dated 21.11.1994.

5. While the submission of Sri D.V. Sitharam Murthy, learned counsel, cannot be said to be without merit, it must not be lost sight of that this Court would interfere against a show-cause notice, only when the said order is passed by an authority not competent to do so or in cases where the show cause notce suffers from inherent lack of jurisdiction. In the present case, none of these requirements are satisfied. While it is true that in paragraph 4 of the impugned proceedings dated 25.11.1996 it is stated that the Government had Sto cancel the order, the said paragraph must be read in the light of the subsequent paragraph 5 and be construed as a tentative detained decision and not a final decision in the matter. It would meet the ends of justice if the petitioners are granted four weeks time from the date of receipt of a copy of the order to submit their reply to the show cause notice and the first respondent is directed to consider the matter in accordance with law and pass appropriate orders there upon within a period of three months from the date of receipt of a copy of the petitioners' reply. It is made clear that in case petitioners herein do not submit their reply to the show cause notice within the time stipulated above, it is open to the respondents to proceed to pass final orders in accordance with law.

6. The Writ Petition is disposed of accordingly. No order as to costs.

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RAMESH RANGANATHAN

, J

Dated: 23.1.2007

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